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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2011-613**

11 **CHRISTINA ELIZABETH BARRETO**
12 **aka Christina Elizabeth Mulvanny**
13 **410 Castello Road**
Lafayette, CA 94549

A C C U S A T I O N

14 **Registered Nurse License No. RN 559802**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation in her official
20 capacity as the Executive Officer, Board of Registered Nursing, Department of Consumer Affairs.

21 2. On or about September 14, 1999, the Board of Registered Nursing issued Registered
22 Nurse License No. RN 559802 to Christina Elizabeth Barreto aka Christina Elizabeth Mulvanny
23 (Respondent). The License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on April 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
6 licensee or to render a decision imposing discipline on the license.

7 STATUTORY PROVISIONS

8 6. Section 2761 of the Code provides, in pertinent part, that the Board may take
9 disciplinary action against a certified or licensed nurse for any of the following:

10 (a) Unprofessional conduct

11 7. Section 2762 of the Code provides that it is unprofessional conduct for a nurse to:

12 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
13 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
14 administer to another, any controlled substance or any dangerous drug or dangerous device.

15 (b) Use any controlled substance or any dangerous drug or dangerous device, or alcoholic
16 beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other
17 person, or the public or to the extent that such use impairs his or her ability to conduct with safety
18 to the public the practice authorized by his or her license.

19 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation of the licensing
21 act to pay a sum not to exceed reasonable costs of investigation and enforcement.

22 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

23 9. Section 4021 of the Code states:

24 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code.”

26 10. Section 4022 of the Code states, in pertinent part:

27 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
28 except veterinary drugs that are labeled as such, and includes the following:

1 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
2 prescription,’ ‘Rx only,’ or words of similar import.

3 ...

4 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
5 prescription or furnished pursuant to Section 4006.”

6 11. **Phenergan** and **Pentazine** are brand names for **promethazine**, a dangerous drug as
7 designated by Business and Professions Code section 4022. It is an antihistamine that may also
8 be used to prevent motion sickness and treat nausea and vomiting (antiemetic).

9 12. **Zofran** is a brand name for **ondansetron**, a dangerous drug as designated by
10 Business and Professions Code section 4022. It is an anti-nausea drug (antiemetic).

11 FACTUAL BACKGROUND

12 13. Between at least 2008 and on or about January 15, 2010, Respondent was employed
13 as a registered nurse at John Muir Medical Center (JMMC) in Walnut Creek, CA.

14 14. During a time period that included but may not have been limited to October 2009 to
15 January 2010, Respondent, while on duty as a registered nurse, diverted from the drug supplies of
16 the hospital, and self-administered, dangerous drugs including **Zofran** and **Phenergan** (or their
17 generic equivalents or other brand name drugs with the same active ingredient(s)).

18 15. The exact number of instances of diversion and self-use, and the exact quantity of
19 drugs diverted and self-administered, are not known. However, Respondent admitted to doing so
20 on a regular basis between October 2009 and January 12, 2010. Respondent further admitted that
21 she would divert by initiating transaction(s) on the Pyxis units as if she were going to withdraw
22 patient medication(s), in order to open the drawer(s) containing the drugs she wanted, then would
23 cancel the Pyxis transactions. During the time period in question, at least three Pyxis units were
24 discovered to have shortages of **Zofran** and/or **Phenergan** (or their equivalents). On or about
25 January 12, 2010, after Respondent was the only person to have access to a particular drawer of
26 one of the Pyxis units on that date, the drawer was discovered to be missing eight (8) **Phenergan**
27 tablets. An audit of Pyxis transactions also revealed that during this period Respondent regularly
28 had over twenty-five (25) cancelled transactions a month, far more than any other nurse recorded.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct –Obtaining, Possessing, Self-Administering Dangerous Drug(s))

3 16. Respondent is subject to disciplinary action under section 2761(a) and/or 2762(a) of
4 the Code, in that Respondent, as described in paragraphs 13 to 15 above, during a time period that
5 included October 2009 to January 2010, engaged in unprofessional conduct by unlawfully
6 obtaining, possessing, and/or self-administering dangerous drug(s).

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct – Dangerous and/or Injurious Use of Dangerous Drug(s))

9 17. Respondent is subject to disciplinary action under section 2761(a) and/or 2762(b) of
10 the Code, in that Respondent, as described in paragraphs 13 to 15 above, during a time period that
11 included October 2009 to January 2010, engaged in unprofessional conduct by using dangerous
12 drug(s) to an extent or in a manner dangerous or injurious to herself, another person, or the public
13 or to the extent that such use impaired her ability to practice nursing with safety to the public.

14
15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License No. RN 559802, issued to
19 Christina Elizabeth Barreto aka Christina Elizabeth Mulvanny (Respondent)
20 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
21 enforcement of this case, pursuant to Business and Professions Code section 125.3;
22 3. Taking such other and further action as is deemed necessary and proper.

23 DATED: 1/12/11

Louise R. Bailey
24 LOUISE R. BAILEY, M.ED., RN
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

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